

**Enrolled Minutes of the Fifty-Fifth Regular or Special Meeting
For the Twenty-Eighth Highland Town Council
Regular Meeting
Monday, February 12, 2018**

Study Session. The Twenty-Eighth Town Council of the Town of Highland, Lake County, Indiana met in a study session preceding the regular meeting on Monday, February 12, 2018 at 6:40 O'clock P.M. in the regular place, the meeting chambers of the Highland Municipal Building, 3333 Ridge Road, Highland, Indiana.

Silent Roll Call: Councilors Mark Herak, Dan Vassar, Steve Wagner and Konnie Kuiper were present. Councilor Bernie Zemen was absent. The Clerk-Treasurer, Michael W. Griffin was present to memorialize the proceedings. A quorum was attained.

General Substance of Matters Discussed.

1. The Town Council reviewed and discussed the agenda of the imminent regular meeting.
2. The Town Council discussed the language in proposed Ordinance No. 1669 regarding the character of the appointees on the Advisory Tree Board being "at will" or not.

The study session ended at 6:59 O'clock p.m.

Regular meeting. The Twenty Eighth Town Council of the Town of Highland, Lake County, Indiana met in its regular session on Monday, January 09, 2017 at 7:00 O'clock P.M. in the regular place, the plenary meeting chambers of the Highland Municipal Building, 3333 Ridge Road, Highland, Indiana.

The Town Council President, Mark A. Herak presided. The Town Clerk-Treasurer, Michael W. Griffin, was present to memorialize the proceedings. The meeting was opened with Council President Mark Herak reciting the Pledge of Allegiance to the Flag of the United States of America and offering a prayer.

Roll Call: Present on roll call were Councilors Mark Herak, Dan Vassar, Steve Wagner and Konnie Kuiper. Councilor Bernie Zemen was absent. The Clerk-Treasurer, Michael W. Griffin was present to memorialize the proceedings. A quorum was attained.

Additional Officials Present: Rhett L. Tauber, Esq., Town Attorney; John M. Bach, Public Works Director; Peter Hojnicky, Metropolitan Police Chief; William R. Timmer, Jr., CFOD, Fire Chief; David Byers, Recreation Director; Kathy DeGuilio-Fox, Redevelopment Director; and Kenneth J. Mika, Building Commissioner, were present.

Also present: Ed Dabrowski IT Director (Contract) was also present.

Minutes of the Previous Meetings: The minutes of the regular meeting of 22 January 2018 were approved by general consent.

Special Orders:

1. **Public Hearing:** Consideration of proposed additional appropriations in the amount of **\$120,000** in the **Unsafe Building Fund**; in the amount of **\$7,000** in the **General Improvement Fund** and in the amount of **\$920.00** in the **Indiana Bicentennial Legacy Project Fund**.

- (a) *Attorney verification of Proofs of Publication:* The TIMES 25 Jan 2018. The Town Attorney indicated that the proof of publication complied with IC 5-3-1.

(b) **Public Hearing.** The Town Council President called the public hearing to order.

1. Larry Kondrat, 8115 4th Place East, Highland, Indiana, asked for clarification regarding the purposes and sources of funding of the Unsafe Building Fund.

There were no further comments. The public hearing was closed.

(c) Action on **Appropriation Enactment No. 2018-07:** An Enactment Appropriating Additional Moneys in Excess of the Annual Budget for the Unsafe Building Fund, General Improvement Fund, and the Indiana Bicentennial Legacy Project Fund, all pursuant to I.C. 6-1.1-18, and I.C. 36-5-3-5.

Councilor Vassar introduced and moved the consideration of Enactment No. 2018-07 at the same meeting of its introduction. Councilor Kuiper seconded. Upon a roll call vote, a unanimous vote being necessary, there were four affirmatives and no negatives. The motion passed. The enactment could be considered at the same meeting of its introduction.

Councilor Vassar moved the passage and adoption of Enactment No. 2018-07 at the same meeting of its introduction. Councilor Kuiper seconded. Upon a roll call vote, a two-thirds vote being necessary, there were four affirmatives and no negatives. The motion passed. The enactment was passed and adopted at the same meeting of its introduction.

Town of Highland
Appropriation Enactment
Enactment No. 2018-07

AN ENACTMENT APPROPRIATING ADDITIONAL MONEYS IN EXCESS OF THE ANNUAL BUDGET for the UNSAFE BUILDING FUND, GENERAL IMPROVEMENT FUND, AND THE INDIANA BICENTENNIAL LEGACY PROJECT FUND, ALL PURSUANT TO I.C. 6-1.1-18, and I.C. 36-5-3-5.

WHEREAS, Following a public hearing advertised pursuant to I.C. 5-3-1, it has been determined that it is now necessary to appropriate more money than was appropriated in the annual budget for the **Unsafe Building Fund, General Improvement Fund,** and the **Indiana Bicentennial Legacy Project Fund;**

WHEREAS, It has been determined that such additional appropriations as may be approved by this enactment, will not increase the levies set under I.C. 6-1.1-17, all pursuant to I.C. 36-5-3-5;

NOW, THEREFORE BE IT ENACTED by the Town Council of the Town of Highland, Lake County, Indiana, as follows:

Section 1. That for the expenses of said municipality, the following additional sums of money are hereby appropriated and ordered set apart out of the **Unsafe Building Fund** herein named and for the purposes herein specified, subject to the laws governing the same:

UNSAFE BUILDING FUND		
Acct. No. 003-0000-310.05 Demolition Costs:		<u>\$ 120,000.00</u>
	<i>Total Series:</i>	\$ 120,000.00
	Fund Total:	\$ 120,000.00

Section 2. That for the expenses of said municipality, the following additional sums of money are hereby appropriated and ordered set apart out of the **General Improvement Fund** herein named and for the purposes herein specified, subject to the laws governing the same:

GENERAL IMPROVEMENT FUND		
Acct. No. 083-0000-34003 Record/Releasing Lien		<u>\$ 7,000.00</u>
	<i>Total Series:</i>	\$ 7,000.00
	Fund Total:	\$ 7,000.00

Section 3. That for the expenses of said municipality, the following additional sums of money are hereby appropriated and ordered set apart out of the **Indiana Bicentennial Legacy Project Fund** herein named and for the purposes herein specified, subject to the laws governing the same:

INDIANA BICENTENNIAL LEGACY PROJECT FUND	
Acct. No. 034-0000-39113 Framing and Plaques:	\$ 920.00
<i>Total Series:</i>	\$ 920.00
Fund Total:	\$ 920.00

Section 4. That the Clerk-Treasurer is hereby authorized and instructed to inform the Department of Local Government Finance of this action and that these monies be made available for expenditure pursuant to I.C. 6-1.1-18.

Section 5. That in satisfaction and for the purposes of the provisions set out in I.C. 36-5-2-9.6, I.C. 36-5-3-5, I.C. 36-5-4-2, this enactment shall be deemed properly filed and introduced before the Town Council at a regular or special meeting, properly called and convened pursuant to I.C. 5-1.5-14 *et seq.*

Introduced and Filed on the 12th Day of February 2018. Consideration on the same day or at same meeting of introduction sustained a vote of 4 in favor and 0 opposed, pursuant to IC 36-5-2-9.8.

DULY ORDAINED AND ADOPTED this 12th Day of February 2018, by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 4 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA**

Mark A. Herak, President (IC 36-5-2-10)

ATTEST:

Michael W. Griffin, IAMC/MMC/CPFA/CPFIM/CMO
Clerk-Treasurer (IC 33-42-4-1; IC 36-5-6-5)

2. Plan Commission Docket No. 2017-07: Petitioner is seeking an amendment to the *text of the zoning ordinance* involving reconstruction of structures in a non-conforming use. **Petitioner:** Plan Commission *sui sponte*. The matter was certified by the Municipal Plan Commission with a **favorable recommendation**, by a vote of 5 in favor, and 1 opposed at its meeting of January 17, 2018. The Plan Commission's findings of fact were memorialized from the January 17 hearing and were adopted at its special meeting of February 7, 2018.

Pursuant to IC 36-7-4-607(e), having received a favorable recommendation, the Town Council may either approve the recommendation and adopt the ordinance, amend the ordinance and return it for further action by the Plan Commission, or reject the recommendation, and defeat the ordinance. If no action occurs within 90 days, the recommendation of the Plan Commission is adopted. 90 days tolls on April 17, 2018.

- (A) *Certification of Action by the Plan Commission regarding a Proposed Amendment to the existing text of the Zoning Code.* The certification transmitted and signed by the Building Commissioner was read and acknowledged.
- (B) **Ordinance No. 1668** of the Town of Highland, Amending Section 18.90.050(C)(1) regarding Nonconforming Uses of Structures or of Structures and Land in Combination. *(As a zoning ordinance, this may be considered at the same meeting without resort to special motion and passes with an affirmative vote of the majority of the Town Council. See IC 36-5-2-9.8(b)(1))*

Councilor Wagner moved that the recommendation of the Plan Commission be approved and that Ordinance No. 1668 be passed and adopted. Councilor Kuiper seconded. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The ordinance was adopted.

**ORDINANCE NO. 1668
OF THE TOWN OF HIGHLAND**

An Ordinance Amending Section 18.90.050(C)(1) entitled "Nonconforming Uses of Structures or of Structures and Land in Combination" for the Town of Highland, Indiana, repealing all Ordinances and conflict therewith, and declaring an emergency.

WHEREAS, The Town Council of the Town of Highland is the municipal legislative body of the unit;
and

WHEREAS, With the passage of time, various Ordinances, codes and procedures of the Town of Highland must be amended; and

WHEREAS, With the passage of time, various practices, policies and procedures must be updated;
and

WHEREAS, The Town Council is interested in amending Section 18.90.050(C)(1) to provide that a nonconforming structure may be repaired, reconstructed or structurally altered without enlargement or extension; and

WHEREAS, The Town Council desires to repeal section 18.90.050(C)(1) and replace it with this current version as set forth below,

NOW, THEREFORE, BE IT HEREBY ORDAINED by the Town Council of the Town of Highland, Lake County, Indiana as follows:

Section 1. Chapter 18.90; Section 18.90.050(C)(1) is hereby repealed in its entirety and replaced with the following:

Section 18.90.050(C)(1) Nonconforming Uses of Land and Structures. No existing structure devoted to a use not permitted by this title in the district in which it is located shall be enlarged or extended. Any such existing nonconforming structure may be repaired, reconstructed or structurally altered without enlargement or extension provided that such repair, reconstruction or alteration shall comply with all other regulations of the district of which it is located.

Section 2. That an emergency exists for the immediate taking effect of this amendment, and the same shall be in full force and effect from and after its passage.

Certificate of the Municipal Plan Commission

It is hereby certified that the foregoing proposed amendment and partial repeal of the text of the Zoning Ordinance was considered by the Highland Municipal Plan Commission at its meeting of January 17, 2018, having passed by a vote of 5 in favor and 1 opposed. Findings of Fact were adopted at its meeting of February 21, 2018 by a vote of 6 in favor and 0 opposed. This proposal was duly forwarded with a favorable recommendation for adoption to the Town Council of Highland on the 7th day of February, 2018.

TOWN OF HIGHLAND
Municipal Plan
Commission

Mark J. Schocke, President

ATTEST:

Mark S. Kendra, Secretary

Action by Legislative Body

DULY ORDAINED AND ADOPTED pursuant to provisions of IC 36-5-2-9.8(b)(1), the recommendation of the Plan Commission is noted and the Ordinance is hereby (adopted/~~defeated~~) by the Town Council of the Town of Highland, Lake County, Indiana this 12th day of February, 2018, having sustained by a vote of 4 in favor and 0 opposed in support of the (adoption/~~defeat~~) herein described.

**TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA**

Mark A. Herak, President (IC 36-5-2-10)

ATTEST:

Michael W. Griffin, IAMC/MMC/CPFA/ CPFIM/CMO
Clerk-Treasurer (IC 33-42-4-1; IC36-5-6-5)

3. **Presentation of Plaque of appreciation to the 66th Town Council President, Dan Vassar.** The Town Council President expressed appreciation to Councilor Vassar for his service as the 66th President of the Town Legislative Body. He presented a plaque with a wooden gavel with the following engraving:

*“On behalf of the people of Highland, the Town Council and the Town Clerk-Treasurer present this special expression of appreciation to **Dan Vassar** in recognition of his service to the Town of Highland, Indiana, serving as the sixty-sixth President of the Highland Town council, for a term commencing January 9, 2017 through January 8, 2018.”*

It is noted that the band on the gavel also was engraved with the name of the honored Town Council President signifying that he was the 66th President.

Staff Reports: The following staff reports were received and filed.

• **Building & Inspection Report for January 2018**

Permit Type	Number	Residential	Commercial	Est. Cost	Fees
Commercial Buildings:	1	0	1	\$3,024,915.00	\$38,167
Commercial Additions or Remodeling:	2	0	2	\$14,536.00	\$298.00
Signs:	1	0	1	\$800.00	\$82.00
Single Family:	0	0	0	\$0.00	\$0.00
Duplex/Condo:	0	0	0	\$0.00	\$0.00
Residential Additions:	0	0	0	\$0.00	\$0.00
Residential Remodeling:	37	37	0	\$464,185.00	\$8,077.00
Garages:	0	0	0	\$0.00	\$0.00
Sheds:	0	0	0	\$0.00	\$0.00
Decks & Porches:	0	0	0	\$0.00	\$0.00
Fences:	0	0	0	\$0.00	\$0.00
Swimming Pools:	0	0	0	\$0.00	\$0.00
DrainTile/ Waterproofing:	7	7	0	\$50,686.00	\$1,161.50
Miscellaneous	6	3	3	\$441,445.00	\$7,437.00
TOTAL:	54	47	7	\$3,996,567.00	\$55,222.50
Electrical Permits	19	16	3		\$3,057.00
Mechanical Permits	9	7	2		906.00
Plumbing Permits	5	2	3		\$1,287.00
Water Meters	4	3	1		\$1,340.00
Water Taps	0	0	0		\$0.00
Sewer/Storm Taps	0	0	0		\$0.00
TOTAL Plumbing:	9	5	4		\$2,627.00

January Code Enforcement:

Investigations: 38
Citations: 20

January Inspections:

Building: 16 Electrical: 24 Plumbing: 06 HVAC: 7

Electrical Exams: 2

• **Fire Department Report for January**

<u>Type of Call</u>	<u>Month</u>	<u>1st half of year</u>
General Alarms	19	19
Paid Still Alarms	25	25
Still Alarms	5	5
Total Alarms:	49	49

• **Workplace Safety Report for January**

Department	Injuries this Month	Year to Date 2018	Total in 2017	Restricted Days 2018	Lost Workdays This Year (2018)	Restricted Days Last Year (2017)	Lost Workdays Last Year (2017)
Parks	0	0	0	0	0	0	0
Fire	0	0	0	0	0	0	0
Police	1	1	6	0	0	0	365
Street	0	0	0	0	0	0	0
Water & Sewer	0	0	2	0	0	0	0
Maint.	0	0	2	0	0	0	0
Other	0	0	0	0	0	0	0
TOTALS	1	01	10	0	0	0	365

Effective January 1, 2002, OSHA changed the record keeping guidelines. The municipality now counts the number of days lost from the day after the injury until the employee returns to work. Weekend, holidays, vacation days or other days scheduled off are included in the lost days count to a maximum of 180 days.

Appointments:

• **Statutory Boards and Commissions**

Executive Appointments

1. **Redevelopment Commission** (3) appointments to be made by Town Council President. *(Note: currently held by Bernie Zemen; Michael Griffin and Steve Wagner)*

The Town Council President announced and executed the appointment of **Bernie Zemen, Steve Wagner and Michael Griffin** to the Redevelopment Commission.

Legislative Appointments

1. **Redevelopment Commission** (2) appointments to be made by Town Council. *(Note: currently held by Mark A. Herak and Dan Vassar)*

Councilor Wagner moved, seconded by Councilor Kuiper to reappoint **Mark Herak and Dan Vassar** to the Redevelopment Commission. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. **Mark Herak and Dan Vassar** were reappointed to an additional one-year term.

2. **Traffic Safety Commission**

- (5) Appointments to be made by the Town Council representing the following departments or bodies: (2) from Police Department; (1) from the Fire Department; (1) from Public Works and (1) from the Town Board of Metropolitan Police Commissioners. These members serve for a term of three years expiring on the First Monday in January. *(The Police Chief is the Chair regardless of being a member.)*
- In addition, the Commission shall have a representative from the Town Council, which may be held by a single member or between several members as the Town Council may direct. Only one appointee may participate in a meeting at any given time. *The Town Council representatives are Konnie Kuiper and Bernie Zemen, who continue to serve unless there is action taken otherwise.*
Currently serving: *Commander John Banasiak, Peter Hojnicky; William Timmer; John Bach; and Steve Jurczak.*

Councilor Vassar moved to reappoint to the Traffic Safety Commission **John Banasiak** and **Pete Hojnicky** from the Police Department; **William Timmer** from the Fire Department; **John Bach**, from the Public Works Department; **Steve Jurczak** from the Town Board of Metropolitan Police Commissioners and Councilors **Konnie Kuiper** and **Bernie Zemen** as co-Town Council representatives. Councilor Wagner seconded. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The persons named were appointed for a term of three years.

Unfinished Business and General Orders:

1. **Proposed Ordinance No. 1669:** An Ordinance Adding Chapter 8.25 To The Highland Municipal Code, Affirming An Urban Forest Management Plan And Establishing A Tree Advisory Board.

Councilor Vassar introduced and filed the proposed Ordinance No. 1669. There was no further action. The ordinance was filed.

2. **Proposed Ordinance No. 1670:** An Ordinance To Amend Chapter 8.20 Of The Highland Municipal Code, Updating Regulations For Structures, Maintenance Of Trees And Other Plants In Parkways.

Councilor Vassar introduced and moved the consideration of Ordinance No. 1670 at the same meeting of its introduction. Councilor Kuiper seconded. Upon a roll call vote, a unanimous vote being necessary, there were four affirmatives and no negatives. The motion passed. The ordinance could be considered at the same meeting of its introduction.

Councilor Vassar moved the passage and adoption of Ordinance No. 1670 at the same meeting of its introduction. Councilor Wagner seconded. Upon a roll call vote, a two-thirds vote being necessary, there were four affirmatives and no negatives. The motion passed. The ordinance was passed and adopted at the same meeting of its introduction.

ORDINANCE No. 1670
of the
TOWN OF HIGHLAND, INDIANA

AN ORDINANCE TO AMEND CHAPTER 8.20 OF THE HIGHLAND MUNICIPAL
CODE, UPDATING REGULATIONS FOR STRUCTURES, MAINTENANCE OF TREES
AND OTHER PLANTS IN PARKWAYS

WHEREAS, IC 36-1-3-2 and IC 36-1-3-6(b)(1) confer upon all local units the powers that they need for the effective operation of government as to local affairs and prescribe the manner and form of enactment for any such exercise of power;

WHEREAS, Title 36, Article 1, Chapter 5 of the Indiana Code provides that the legislative body of a unit shall codify, revise, rearrange, or compile the ordinances of the unit into a complete, simplified code excluding formal parts of the ordinances;

WHEREAS, The legislative body of this unit, the Town of Highland, is the Town Council, pursuant to IC 36-1-2-9(5) and IC 36-5-2-2;

WHEREAS, The present general and permanent ordinances of the Town of Highland, formally codified in 2012, are in need of technical and substantive modifications not confined to any particular Title, Article or Chapter but nevertheless desirable to further improve and perfect the Code; and

WHEREAS, The Town Council, is persuaded that it is necessary and desirable to adopt the several technical and substantive modifications not confined to any particular Title, Article or Chapter to further improve and perfect the Code,

WHEREAS, The maintenance and care of parkways contributes significantly to the overall aesthetic value, safety and quality of life in the Town of Highland, and

WHEREAS, The Town Council desires to promote planting, maintenance, and survival of desirable trees and other plants on street parkways and to protect public health, safety and general welfare which may be affected by improper planting, maintenance, removal of trees or other plants located on parkways within the Town; and

WHEREAS, The purpose of this ordinance is to update language in the Parkway Tree Code as recommended in the 2017 Highland Tree Inventory and Urban Forest Management Plan approved November 13, 2017 by Resolution 2017-37,

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY the Town Council of the Town of Highland, Lake County, Indiana, as follows:

Section 1. That Chapter 8.20 of the Highland Municipal Code is hereby amended repealing it in its entirety and amending it with a new chapter, to be numbered Chapter 8.20, which shall read as follows:

**Chapter 8.20
STRUCTURES, MAINTENANCE OF TREES AND OTHER PLANTS IN PARKWAYS**

Sections:

- 8.20.010 Definitions.
- 8.20.020 Responsibility for maintenance and care; Paving prohibited.
- 8.20.030 Structures, bushes, trees, tree stumps.
- 8.20.040 Conflicts between trees and structures.
- 8.20.050 Topping prohibited.
- 8.20.060 Harming public trees prohibited.
- 8.20.070 Tree care educational material.
- 8.20.080 Prohibited species.
- 8.20.090 ~~Implementation~~ **Administration** and enforcement.
- 8.20.100 Appeals.

8.20.010 Definitions.

“Landowner” means any person who has an ownership interest in real estate, legal or equitable, partial or absolute, or as a landlord or tenant. Mortgagees or other lien holders shall not be deemed landowners unless and until they acquire ownership by deed or operation of law.

“Parkway” means that area of land lying between the edges of a street, whether paved or unpaved, and the edge of the sidewalk adjacent to and parallel to said street. Where the sidewalk is placed at the edge of the street, whether paved or unpaved, the term shall mean and refer to the area of land between the edge of the sidewalk and aligned parallel to and within the public right-of-way of said street. Where no sidewalk exists, the term shall mean and refer to that area of land lying between the edge of a street, and aligned parallel to and within the public right-of-way of said street. In the downtown area, greenways, planters and bump-out structures are contained within the parkway.

“Pave, repave and cause to be “paved” means the act of covering or surfacing an area with asphalt, concrete, gravel, rock or other materials used in road and street construction.

“Person” means any contractor, landowner, individual, corporation, partnership, joint venture, trust, trustee, beneficial owner of a land trust, nominee of a landowner or any other legal entity.

“Pruning” means ~~the cutting back of tree branches to enable a better shape or more fruitful growth~~ **the removal of selected limbs or branches to improve form, reduce risk of failure, provide clearance for utilities or other structures, reduce wind resistance and damage, maintain overall tree health, and improve overall aesthetics.**

"Topping" means ~~the cutting of the branches and/or trunk of a tree in a manner which will substantially reduce the overall size of the tree area so as to destroy the existing symmetrical appearance or natural shape of the tree in a manner which results in the removal of main lateral branches leaving the trunk of the tree in a stub appearance.~~ **the removal of whole tops of trees or large branches and/or trunks from the tops of trees, leaving stubs or lateral branches that destroy the existing symmetrical appearance or natural shape of the tree.** This definition includes "heading," "tipping," "hat-racking" and "rounding over" which are other terms meaning "topping".

8.20.020 Responsibility for maintenance and care; Paving prohibited.

(A) Except where the town has accepted responsibility for maintenance of parkway streetscape (i.e., the downtown area), the person whose property abuts a street or alley shall maintain and care for any parkway that adjoins or is a part of his property. Such maintenance and care shall include, but not be limited to, the planting and regular mowing of grass, planting, trimming and removal of bushes, and the maintenance of flower beds, all in good condition. ~~The Town will assume responsibility for parkway tree planting, pruning, maintenance and removal where limbs obstruct use of streets. The work shall be done by a contractor, who submits the lowest, most responsible bid meeting specifications including an ISA certified arborist on site during performance of the work.~~ A person whose property abuts a street shall be responsible for pruning trees where limbs overhang and obstruct use of sidewalks or driveways.

(B) A person whose property abuts the parkway in the downtown area shall be responsible for trash removal from greenways, planters and bump-out streetscape structures installed in the parkway.

(C) No person may hereafter pave, repave or cause to be paved all or any part of a parkway, except to provide an apron for driveway access to the property or adjoining property except as provided in subsection (D) of this section. All driveway aprons constructed subsequent to the passage of the ordinance codified in this chapter shall be constructed of concrete, asphalt or brick pavers.

(D) Whenever a person desires to utilize the parkway area for parking due to a hardship, the person shall file an application with the Public Works Director. The application shall include the following:

- (1) Name.
- (2) Address.
- (3) Nature of hardship.
- (4) Plans and specifications that detail the method of paving the parkway, including size of the area, cross-section and type of materials. [Ord. 1351 § 1, 2007. Code 2000 § 172.41].

8.20.030 Structures, bushes, trees, tree stumps.

(A) Except where the town has accepted responsibility for maintenance of parkway streetscape (i.e., the downtown area), no structures, fences, barriers, ties, boulders, temporary signs or objects higher than eight inches above grade may be placed in a parkway. **No raised structures or material of any kind or height may be placed near existing parkway or public property trees, that when filled with soil or other material results in any change of the existing grade near the root flair of the tree.** Notwithstanding anything to the contrary herein, mailboxes, fire hydrants, street signs, utility poles and other public utility equipment may be placed in a parkway.

(B) Except for structures installed prior to April 23, 2007, no basketball goal, goalpost, or backboard may be permanently installed within the parkway or public right-of-way.

(C) No bush or tree may be removed or planted in a parkway without the prior approval of a permit by the Public Works Director or his designee. **Pruning of limbs less than three inches in diameter is exempt from permit requirements.** A utility or contractor may secure an annual permit for tree trimming, removal and planting activities within the town, provided the utility or contractor provides assurance it will abide by terms of this chapter. In approving or disapproving a permit application, the Public Works Director or his designee, shall consider the following facts:

- (1) **The effect the proposed bush or tree may have upon vehicular and pedestrian safety; and**
- (2) The effect the proposed bush or tree may have on any public improvement, including but not limited to streets, alleys, sidewalks, sewers, water lines, and other utilities ~~in close proximity.~~

(D) A person, a utility, or contractor shall secure a permit for removal or replacement of a parkway tree.

(E) The Public Works Director or his designee, shall approve or disapprove a permit application within 10 business days of its submission in writing.

(F) Whenever any tree is removed from a parkway, the stump and roots below grade shall be removed, the adjacent ground area shall be leveled and grass shall be planted upon the place where the tree was located. [Ord. 1351 § 1, 2007. Code 2000 § 172.42].

8.20.040 Conflicts between trees and structures.

Where sidewalk or curb damage due to tree roots occurs, every effort shall be made to correct the problem without removing or damaging the tree. The Public Works Director shall be responsible for developing or

approving corrective measures. Corrective action may include alteration of sidewalk and/or curb construction. [Ord. 1351 § 1, 2007. Code 2000 § 172.43].

8.20.050 Topping prohibited.

The practice of topping and/or other especially destructive maintenance practices such as severely trimming trees in parkways is strictly prohibited. "Severely trimmed" shall mean the cutting of the branches and/or trunk of a tree in a manner which will substantially reduce the overall size of the tree area ~~so as to destroy that destroys~~ the existing symmetrical appearance or natural shape of the tree. ~~in a manner which results in the removal of main lateral branches leaving the trunk of the tree in a stub appearance.~~ The standards identified in ANSI A300, which describe acceptable tree trimming specifications and methods, are incorporated herein by reference and made a part of this code, with two copies on file in the office of the clerk-treasurer and available for public inspection, pursuant to IC 36-1-5-4. [Ord. 1351 § 1, 2007; amended during 2012 recodification. Code 2000 § 172.44].

8.20.060 Harming public trees prohibited.

It shall be a violation of this chapter for any person to abuse, destroy or mutilate any tree, plant or shrub in parkways, the right-of-way or any other public place, or to attach or place any rope, wire, chain, sign, poster, handbill or other objects to or on any tree growing in a public place, or to allow any gaseous, liquid or solid substance which is harmful to such trees to ~~come in contact with~~ contact their roots, trunks, or leaves. [Ord. 1351 § 1, 2007. Code 2000 § 172.45].

8.20.070 Tree care educational material.

Information will be placed on the Town's website and at other locations accessible to residents presenting educational material and standards for the care and maintenance of trees. The information will include a recommendation to plant a wide variety of trees to prevent a single pest or disease from destroying the entire tree inventory, a list of acceptable trees, instruction on mulching, instruction on how to prevent mower/trimmer tree damage and references to other publications related to the care and maintenance of trees. [Ord. 1351 § 1, 2007. Code 2000 § 172.46].

8.20.080 Prohibited species.

All trees that will grow to exceed 20 feet in height shall not be planted below utility lines. ~~The following is table at Exhibit A presents~~ a list of ~~Acceptable and Unacceptable Species Not Approved and Approved Species~~. [Ord. 1351 § 1, 2007. Code 2000 § 172.47]

8.20.090 ~~Implementation-Administration and enforcement.~~

(A) The Public Works Director shall manage ~~implementation of~~ the town tree management program, the planting, care, maintenance, removal and replacement of trees and enforcement of this chapter. **New trees shall not be planted in parkways without notice and the consent of the adjacent property owner.**

(B) The Public Works Director shall make periodic reports on the status of work to promote the planting, maintenance and survival of desirable trees on public property within the town, including recommendations for enhancement of the Town's tree management program.

(C) Notice will be given to a landowner to abate dead, dying, **diseased, infested**, or dangerous trees that are located on private property. **Private property trees are defined as those trees whose trunk, when measured at a point 4.5' above ground level (referred to as "diameter at breast height" or "DBH") is situated more than 51% on private property). Trees whose trunks are situated more than 51% on public property when so measured will be the responsibility of the Town.** The town will not remove trees from private property including easements thereon unless the tree has fallen from a private property location onto a public way (sidewalk, alley or street). In these circumstances, the public works department will clear and remove those portions of the tree from the public way.

(D) The town will not remove trees from the public right-of-way unless:

- (1) The tree is dead, diseased, or dying;
- (2) The tree has fallen or is damaged ~~as a result~~ because of a storm, accident or other means making the tree or its branches an unsafe hazard; or
- (3) The roots of a tree are adversely affecting a buried utility line; ~~street or sidewalk.~~

(E) The Public Works Director will request a budget in the motor vehicle highway fund each year to replace trees located on public ways that are dead, dying, damaged or unsafe to supplement grant funds that may be secured for replacement trees. The budget request will be sufficient to assure there will be no net loss of tree inventory. **If the removal of a public property tree generates in a suitable planting site as defined in the Urban Forest Management Plan, it shall be replaced.**

(F) Any person who violates or fails to comply with this chapter, or any part thereof, may be subject to a fine not to exceed \$100.00 per day. Every day any violation of this chapter shall continue shall constitute a separate offense. The responsibility for payment of a fine for violation of this chapter by a person or a contractor retained by a person shall be joint and several. [Ord. 1351 § 1, 2007. Code 2000 § 172.48].

8.20.100 Appeals.
 A decision of the Public Works Director pertaining to the implementation of this chapter shall be appealable to the Town ~~Council Manager~~ by filing an appeal within 10 days after inaction or a decision of the Public Works Director. The appeal must be in writing and state the reasons for the appeal. ~~The Town Manager shall have 30 days to act on the appeal and the Manager's decision shall be in writing. The Town Manager may conduct hearings as he deems appropriate.~~ The decision of the Town **Council Manager** shall be final subject to an appeal to a court of jurisdiction. [Ord. 1351 § 1, 2007. Code 2000 § 172.49].

Section 2. That this ordinance shall be effective from and after its passage and adoption, as evidenced by the signature of the Town Council President and attested thereto by the Clerk-Treasurer, all pursuant to IC 36-5-2-10 and IC 36-5-2-10.2.

Introduced and Filed on the 12th day of February 2018. Consideration on the same day or at same meeting of introduction sustained on a vote of 4 in favor and 0 opposed, all pursuant to IC 36-5-2-9.8.

DULY ORDAINED AND ADOPTED this 12th day of February 2018, by the Town Council of the Town of Highland, Lake County, Indiana, having passed by a vote of 4 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of
 HIGHLAND, INDIANA**

Mark A. Herak, President (IC 36-5-2-10)

ATTEST:

Michael W. Griffin, IAMC/MMC/CPFA/CPFIM/CMO
 Clerk-Treasurer (IC 33-42-4-1; IC 36-5-6-5)

EXHIBIT SPECIES of TREES NOT APPROVED AND APPROVED

NOT APPROVED	APPROVED SPECIES (ANYWHERE)			PARKS ONLY
	Large Trees	Medium Trees	Small Trees	
AILANTHUS	BALDCYPRESS	ALDER	AMERICAN REDBUD	Large Trees
AMUR CORKTREE	BEECH-AMERICAN	AMUR MAACKIA	BUCKEYE-RED	CHESTNUT-CHINESE
APPLE-CRAB	BEECH-EUROPEAN	BIRCH-RIVER	DOGWOOD-SPP	MAGNOLIA-CUCUMBER
ASH-EUROPEAN	BLACK LOCUST	BIRCH-WHITE	HAWTHORN-COCKSPUR	Medium Trees
ASH-GREEN	BUCKEYE-OHIO	BLACKGUM	HAWTHORN-SPP	GOLDEN RAINTREE
ASH-WHITE	BUCKEYE-YELLOW	ELM-CHINESE	LILAC-TREE	MOUNTAIN ASH
BOXELDER	CATALPA	HARDY RUBBER TREE	ROSE OF SHARON	PEAR-EDIBLE
BUCKTHORN	DAWN REDWOOD	HAZELNUT-TURKISH	SERVICEBERRY-SPP	SASSAFRASS
BURNING BUSH	ELM-HYBRID	HORNBEAM-AMERICAN	SMOKETREE	SEVENTH SON FLOWER
CHERRY-BLACK/PIN	GINKGO*	HORNBEAM-EUROPEAN		Small Trees
COTTONWOOD	HACKBERRY	IRONWOOD		APPLE-EDIBLE
ELM-AMERICAN	HICKORY-SPP	KATSURA		CHERRY-ORNAMENTAL
ELM-SIBERIAN	HONEYLOCUST	MAPLE-HEDGE		LILAC-SHRUB
HONEYSUCKLE	HORSEHESTNUT	MAPLE-MIYABEI		MAGNOLIA-SAUCCER
MAPLE-NORWAY	KENTUCKY COFFEETREE*	MAPLE-PAPERBARK		MAPLE-AMUR
MAPLE-SILVER	LARCH	MAPLE-RED		MAPLE-JAPANESE
MULBERRY-SPP	LINDEN-AMERICAN	MAPLE-SHANTUNG		PEACH/NECTARINE
PEAR-CALLERY	LINDEN-LITTLELEAF	MAPLE-TRIFLORUM		PLUM-SPP
POPLAR-SPP	LONDON PLANETREE	OAK-CHINKQUAPIN		WITCH HAZEL
POPLAR-WHITE	MAPLE-ARMSTRONG	OAK-ENGLISH		Evergreens
PRINCESS TREE	MAPLE-AUTUMN BLAZE	OAK-SHINGLE		ARBOR VITAE
RUSSIAN OLIVE	MAPLE-SUGAR	PERSIAN IRONWOOD		DOUGLAS FIR
WALNUT-ANY	OAK-BURR	YELLOWWOOD		EASTERN REDCEDAR
WILLOW-SPP	OAK-PIN			FIR-CONCOLOR
	OAK-RED			HEMLOCK-SPP
	OAK-SWAMP WHITE		Do Not Plant	JUNIPER-COMMON
	OAK-WHITE		Plant limited quantities	PINE-AUSTRIAN
	PAGODATREE		Plant in abundance	PINE-MUGO
	PERSIMMON			PINE-WHITE
	SWEETGUM			SPRUCE-BLUE
	SYCAMORE			SPRUCE-NORWAY
	TULIPTREE			SPRUCE-SPP
	ZELKOVA			YEW

3. Resolution No. 2018-06: A Resolution Approving the Approving Order of the Plan Commission regarding the Establishment of an Economic Development Area.

Councilor Wagner moved the passage and adoption of Resolution No. 2018-06. Councilor Vassar seconded. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The resolution was adopted.

RESOLUTION No. 2018 - 06
A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF HIGHLAND, LAKE COUNTY, INDIANA, APPROVING AN AMENDED DECLARATORY RESOLUTION OF THE HIGHLAND

**REDEVELOPMENT COMMISSION FOR THE HIGHLAND ACRES ECONOMIC DEVELOPMENT AREA
AND APPROVING THE ORDER OF THE HIGHLAND PLAN COMMISSION**

WHEREAS, on January 22, 2018, the Highland Redevelopment Commission (the "Commission"), approved Resolution No. 2018-01 as an amending Declaratory Resolution (the "Declaratory Resolution") for the Highland Acres Economic Development Area (the "Area") in the Town of Highland, Lake County, Indiana (the "Town") pursuant to Indiana Code 36-7-12, -14, and -25 (the "Act"); and

WHEREAS, on February 7, 2018, the Highland Plan Commission (the "Plan Commission") approved the Declaratory Resolution; and

WHEREAS, the Act requires approval of the Declaratory Resolution and the action of the Plan Commission by the Town Council (the "Town Council") of the Town;

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Highland, Lake County, Indiana, as follows:

1. **Resolution No. 2018-01 is in all respects approved, ratified and confirmed by the Town Council.**
2. **The action of the Plan Commission is in all respects approved, ratified and confirmed by the Town Council.**
3. **The Clerk-Treasurer is hereby directed to file a copy of Resolution No. 2018-01 and the approving Order of the Plan Commission with the permanent minutes of the meeting.**
4. **This resolution shall be effective from and after passage.**

DULY RESOLVED and ADOPTED this 12th day of February, 2018 by the Highland Town Council, having been passed by a vote of 4 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA**

Mark A. Herak, President (IC 36-5-2-10)

ATTEST:

Michael W. Griffin, IAMC/MMC/CPFA/
CPFIM/CMO, Clerk-Treasurer
(IC 33-42-4-1; IC36-5-6-5)

Exhibit:

**ORDER OF THE HIGHLAND PLAN COMMISSION APPROVING AN
AMENDING DECLARATORY RESOLUTION OF THE HIGHLAND
REDEVELOPMENT COMMISSION FOR THE HIGHLAND ACRES
ECONOMIC DEVELOPMENT AREA**

WHEREAS, the Highland Plan Commission (the "Plan Commission") is the body charged with the duty of developing a general plan of development for the Town of Highland, Indiana (the "Town"); and

WHEREAS, on January 22, 2018, the Highland Redevelopment Commission (the "Commission") adopted Resolution No. 2018-01 entitled "AN AMENDING DECLARATORY RESOLUTION OF THE HIGHLAND REDEVELOPMENT COMMISSION AMENDING THE HIGHLAND ACRES ECONOMIC DEVELOPMENT AREA AND THE ECONOMIC DEVELOPMENT PLAN FOR THE AREA AND ESTABLISHING THE CARDINAL CAMPUS ALLOCATION AREA" (the "Declaratory Resolution"); and

WHEREAS, the Declaratory Resolution amends Resolution No. 2007-10 adopted by the Commission on October 10, 2007, for the Highland Acres Economic Development Area (the "Area") to amend and supplement the Economic Development Plan for the Area and to amend the allocation provision of the Declaratory Resolution in order to designate a new allocation area within the Area for new economic development opportunities presented to the Commission and for proposed redevelopment projects and programs designed to stimulate future economic development, and to authorize the Commission to undertake all activities in the Area that are allowed by the Act; and

WHEREAS, the Commission has submitted the Declaratory Resolution to the Plan Commission for approval pursuant to the provisions of the Act; and

WHEREAS, the Plan Commission now desires to issue its written order approving the Declaratory Resolution:

NOW, THEREFORE, IT IS ORDERED by the Highland Plan Commission, as follows:

1. **The Declaratory Resolution conforms to the comprehensive plan for Town.**
2. **The Declaratory Resolution is in all respects approved, ratified and confirmed.**

3. **This Order is hereby designated as and constitutes the written order of the Plan Commission approving the Declaratory Resolution pursuant to the requirements of Section 16 of the Act.**

4. The Secretary of the Plan Commission is hereby directed to forward a copy of this Order together with the Declaratory Resolution to the Town Council for its consideration.

5. The Secretary is hereby directed to file a copy of this Order with the minutes of this meeting.

IN WITNESS WHEREOF, the members of the Highland Plan Commission have hereunto set their hands, this 7th day of February, 2018.

HIGHLAND ADVISORY PLAN COMMISSION

Mark J. Schocke, President

Attest:

Mark S. Kendra, Secretary

4. **Resolution No. 2018-08:** A Resolution of the Fiscal Body of the Town of Highland Authorizing Sponsoring the Monthly Radio Show Broadcast on Radio Station WJOB Devoted to the Town of Highland.

Councilor Wagner moved the passage and adoption of Resolution No. 2018-08. Councilor Vassar seconded. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The resolution was adopted.

TOWN of HIGHLAND
Town Council Resolution No. 2018-08

A RESOLUTION OF THE FISCAL BODY OF THE TOWN OF HIGHLAND AUTHORIZING SPONSORING THE MONTHLY RADIO SHOW BROADCAST ON RADIO STATION WJOB DEVOTED TO THE TOWN OF HIGHLAND

WHEREAS, The Town Council of the Town of Highland serves as both the legislative and fiscal body of the municipality, all pursuant to I.C. 36-1-2-6, I.C. 36-1-1-2-9 and I.C. 36-5-2-2;

WHEREAS, IC 36-1-3-2 and IC 36-1-3-6(b)(1) confer upon local units of government the powers that they need for the effective operation of government as to local affairs and prescribe the manner and form of enactment for any such exercise of power;

WHEREAS, Section 2.35.030 of the Highland Municipal Code authorizes the Town Council to appropriate funds of the General Fund to pay the expenses incurred in promoting the best interests of the Town;

WHEREAS, Councilor Bernie Zemen has more several years hosted a program broadcast on Radio Station WJOB once a month, in which the subject is the Town of Highland and matters of public interest and import regarding the Town;

WHEREAS, Councilor Zemen has funded the sponsorship fee by soliciting and obtaining patrons from vendors and benefactors in and of the Town; and,

WHEREAS, Councilor Zemen has communicated the undue burden and ill ease he experiences in enrolling sponsors and patrons to support the fees to support the program as required by WJOB;

WHEREAS, The Town Council now desires to make findings and determinations necessary to support authorizing the payment of the sponsorship fee to support the monthly program related to the Town of Highland,

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Highland, Lake County, Indiana, as follows:

Section 1. That the Highland Town Council hereby finds and determines that a monthly radio broadcast on WJOB devoted to news and information about the Town of Highland *promotes the best interests of the Town, may serve to develop relations with other units of government* and is a desirable activity of a civil or governmental nature;

Section 2. That the Highland Town Council hereby further finds and determines as follows:

(A) That the expense of two hundred dollars (\$200) per month to sponsor or support the broadcast of a monthly radio program on WJOB devoted to news and information about the Town of Highland is an expense that *promotes the best interests of the Town, may serve to develop relations with other units of government and is an expense of a civil or governmental nature; and,*

(B) That the expenses previously described are consistent with and pursuant to the authorization set forth in Section 2.35.030 of the Highland Municipal Code to wit:

§ 2.35.030 AUTHORITY OF TOWN COUNCIL TO REIMBURSE TOWN OFFICIALS FOR CERTAIN EXPENSES.

The Town Council is hereby authorized to budget and appropriate funds from the general fund of the town to pay the expenses of, and to reimburse, town officials for expenses incurred in promoting the best interests of the town. Such expenses may include, but not necessarily be limited to meals, decorations, memorabilia, awards, expenses incurred in interviewing job applicants, expenses incurred in promoting industrial, commercial, and residential development, expenses incurred in developing relations with other units of government, and any other expenses of civic or governmental nature deemed by the Town Council to be in the interests of the town.

Section 3. That effective for the months of January through December 2018, the expense of two hundred dollars (\$200) per month is hereby authorized to support the sponsorship of the Radio program on WJOB devoted to the Town of Highland;

Section 4. That the proper officer is authorized to encumber funds from the proper account of the Corporation General Fund, payable to WJOB, for the period authorized in Section 3 of the is resolution;

Section 5. That the Clerk-Treasurer shall process all payments in accordance with the provisions of IC 5-11-10-1.6 and IC 36-5-4 et seq., as all other claims for payment of the Town.

DULY RESOLVED and ADOPTED this 12th Day of February 2018 by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 4 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA**

Mark A. Herak, President

Attest:

Michael W. Griffin, IAMC/MMC/CPFA/CPFIM/CMO
Clerk-Treasurer

5. **Works Board Order No. 2018-10:** An Order Authorizing, Approving, Accepting and Concurring in an Amendment to an Existing Property Donation and Transfer Agreement with View Outdoor Advertising, LLC as Grantor and the Town of Highland as Grantee.

Councilor Wagner moved the passage and adoption of Works Board Order No. 2018-10. Councilor Vassar seconded. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The order was adopted.

**THE TOWN OF HIGHLAND
ORDER of the WORKS BOARD NO. 2018-10**

An Order Authorizing, Approving, Accepting and Concurring in an Amendment to an Existing Property Donation and Transfer Agreement with View Outdoor Advertising, LLC as Grantor and the Town of Highland as Grantee

Whereas, View Outdoor Advertising, LLC is in the process of or has completed the steps to acquiring ownership of approximately one and one-half (1.5) acres of real estate within the Town of Highland;

Whereas, The Town still desires to create an attractive and aesthetically pleasing “gateway” entrance into the community on said Real Estate; and

Whereas, View Outdoor Advertising, LLC continues its desire to cooperate with Town to accomplish such a plan, while also constructing and installing an outdoor advertising structure on the Real Estate; and

Whereas, Town still wishes to obtain title to three (3) parcels of land adjoining the Real Estate, hereinafter referred to as the Railroad Parcels (being approximately four and eight tenths (4.8) acres);

Whereas, View Outdoor Advertising, LLC still desires to aid the Town and the Board of Commissioners of Lake County, Indiana (the "Commissioners") in the transfer of title of the Railroad Parcels from the Commissioners to Town pursuant to I.C. 6-1.1-24-6.2; and

Whereas, In order to accomplish the plan of Town to create an attractive and aesthetically pleasing "gateway" entrance to Town on the Real Estate and for View Outdoor Advertising, LLC to obtain the necessary governmental approvals for the construction and installation of an outdoor advertising structure and related utilities on the Real Estate, (collectively, the "Approvals"), the parties heretofore reached an agreement to accomplish these purposes with the Town Council approving that Agreement in furtherance of the foregoing at its meeting of September 11, 2017, by adopting Works Board Order No. 2017-22;

Whereas, The Town Attorney has advised of the necessity to **amend** the existing agreement to further perfect it in furtherance of the foregoing; and,

Whereas, The Town of Highland, through its Town Council, acting as the Works Board, now wishes to authorize, adopt and approve the **amendment** to the existing agreement between the Town of Highland and View Outdoor Advertising, LLC, as recommended by the Town Attorney,

Now, Therefore, Be It hereby Ordered by the Highland Town Council, acting as the Works Board of the Municipality as follows:

Section 1. That the Amendment to the Agreement between View Outdoor Advertising, LLC and the Town of Highland, which is incorporated by its reference, is hereby authorized, approved, accepted and ratified in each and every respect;

Section 2. That Town of Highland, as Grantee, accepts from the Grantor, View Outdoor Advertising, LLC, all the conveyances specified in the original agreement and restates its terms except as to those provisions that are hereby amended (legal descriptions);

Section 3. That the amendment to the agreement adopted by this order including its exhibits is incorporated herein as an exhibit to this order;

Section 4. That the Town Council President and the Clerk-Treasurer are hereby authorized and directed to evidence this acceptance, approval and adoption of the easements and agreement by affixing their signatures to the agreement.

Be it So Ordered.

DULY, PASSED, ADOPTED and ORDERED by the Town Council of the Town of Highland, Lake County, Indiana, acting as the Works Board, this 12th day of February 2018 having passed by a vote of 4 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA**

Mark A. Herak, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA/CPFIM/CMO
Clerk-Treasurer (IC 33-42-4-1; IC 36-5-6-5)

MODIFICATION AND FIRST AMENDMENT TO AGREEMENT

This Agreement made and entered into this 12th day of February, 2018, by and between **TOWN OF HIGHLAND, LAKE COUNTY, INDIANA, BY AND THROUGH ITS TOWN COUNCIL** (hereinafter further referred to as "Town"), and **VIEW OUTDOOR ADVERTISING, LLC, AN INDIANA LIMITED LIABILITY COMPANY** (hereinafter referred to as "View").

WITNESSETH:

WHEREAS, Town and View did enter into that certain agreement dated as of the 25th day of September, 2017, (herein "the Agreement");

WHEREAS, the parties hereby agree that the legal descriptions in the Agreement need to be revised and amended as hereinafter provided;

WHEREAS, Town and View wish to amend and supplement said Agreement as hereinafter provided.

NOW, THEREFORE, in consideration of the covenants and conditions herein set forth, as set forth in the Agreement, Town and View do hereby mutually covenant, promise and agree as follows:

1. Provisions of the Agreement

The provisions of the Agreement shall remain in full force and effect during the term hereof, except as they may be amended in accordance with the provisions of this Agreement.

2. Amendment of the Agreement

The Agreement is hereby amended as follows:

a. The legal description set forth in the first whereas paragraph of the Agreement on page 1 is hereby amended to provide that the one and a half (1.5) acres of real estate within the Town of Highland is more particularly described as follows:

See Exhibit "A" attached hereto and incorporated herein by reference (hereinafter the "Real Estate").

b. In the WHEREAS provision in the Agreement beginning at the bottom of page 2 referred to as the Railroad Parcels, which are presently owned by the Petrites Trust, the legal description is hereby amended to provide that the legal description for the Railroad Parcels is as follows:

See Exhibit "B" attached hereto and incorporated herein by reference (hereinafter the "Railroad Parcels").

3. Effective Date

This Amendment shall become *binding* upon the parties when executed by both parties. The terms and provisions hereof shall apply and become effective as an Amendment to the Agreement effective as of February 12, 2018, and shall continue in effect until otherwise amended by the parties in writing or until expiration or sooner termination of the Agreement.

4. Incorporation by Reference

The terms and provisions of the Agreement, a copy of which is attached hereto as Exhibit "C" are hereby incorporated herein by reference as amended hereby, the same as set forth herein in full, and the same shall be applicable and in full force and effect during the term of this Agreement and thereafter in the same manner and to the same extent as if executed and delivered concurrently herewith.

5. Binding Effect of Entire Agreement

This Agreement shall be binding upon the heirs, executors, administrators, successors, and assigns of the parties hereto. This Agreement constitutes the entire Agreement between the parties. No subsequent alterations, amendments or additions shall be binding upon Town or View unless and until reduced in writing and signed by the person duly authorized by the parties. In the event of a conflict between the terms of the Agreement and this Modification and Amendment of the Agreement, the terms and provisions of this Modification and Amendment shall control in all respects.

[Signature Page Follows]

IN WITNESS WHEREOF, View and Town have entered into this Agreement as of day and year written above.

TOWN:

THE TOWN OF HIGHLAND, LAKE
COUNTY, INDIANA, BY AND THROUGH
ITS TOWN COUNCIL

By: _____
MARK A. HERAK, President

VIEW:

VIEW OUTDOOR ADVERTISING, LLC,
an Indiana limited liability company

By: _____
PETE SCHROEDER, President

ATTEST:

MICHAEL W. GRIFFIN, IAMC/MMC/CPFA/CPFIM/CMO,
Clerk-Treasurer (IC 33-42-4-1; IC 36-5-6-5)

This Instrument Prepared By:
Rhett L. Tauber, Esq.
Tauber Law Offices
1415 Eagle Ridge Drive
Schererville, IN 46375
(219) 865-6666

- Works Board Order No. 2018-11:** An Order Approving and Authorizing the Metropolitan Police Chief to Purchase from Lakeshore Ford of Chesterton, IN through the State of Indiana (1) one 2018 Ford Utility Police Interceptor Base, pursuant to I.C. 5-22 et seq., and Chapter 3.05 of the Highland Municipal Code.

Councilor Kuiper moved the passage and adoption of Works Board Order No. 2018-11. Councilor Wagner seconded. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The order was adopted.

**Town of Highland
Board of Works
Order of the Works Board 2018-11**

An Order Approving and Authorizing the Metropolitan Police Chief to Purchase from Lakeshore Ford of Chesterton, IN through the State of Indiana (1) one 2018 Ford Utility Police Interceptor Base pursuant to I.C. 5-22 et seq., and Chapter 3.05 of the Highland Municipal Code.

Whereas, The Town of Highland Metropolitan Police Department, as part of its public duties, has a responsibility for patrol, public safety and protection of life and property throughout the Town of Highland and, from time to time, it is necessary to purchase and or lease materials and supplies in order to carry out the functions of the department; and

Whereas, The Metropolitan Police Chief has determined a need to replace certain equipment and supplies and has further determined the purchase price will be below \$50,000.00 and may deemed a small purchase pursuant to Section 3.05.060 G (2) of the Highland Municipal Code;

Whereas, The Metropolitan Police Chief has identified Lakeshore Ford of Chesterton, Indiana to be a desirable source vendor for the purchase of one (1) 2018 Ford Utility Police Interceptor Base at price of \$25,842.00, with one new Ford option addition of a Reverse Sensing at a price of \$261.00 for a total of \$26,103.00.

Whereas, The price for the purchase exceeds \$15,000.00 and, pursuant to Section 3.05.050 (B)(2) of the Highland Municipal Code, such purchase requires the express approval of the purchasing agency; and

Whereas, The Town Council as the Works Board of the Municipality, pursuant to Section 3.05.030 (A)(2) of the Highland Municipal Code serves as the purchasing agency for the Metropolitan Police Department; and

Whereas, The Metropolitan Police Chief, pursuant to Section 3.05.050 (D)(2) of the Highland Municipal Code, serves as the Purchasing Agent for the Metropolitan Police Department; and

Whereas, The Purchasing Agent, pursuant to Section 3.05.060 (G)(2) of the Highland Municipal Code, expects that the purchase would be less than \$50,000 and therefore would be purchased in the open market without inviting or receiving quotes;

Whereas, The Purchasing Agent, elected to purchase in the open market pursuant to Section 3.05.060 (G)(2) of the Highland Municipal Code, as follows:

Lake Shore Ford, 244 Melton Road, Chesterton, Indiana at a unit price Of \$25,842.00 for one (1) vehicles and the Ford Reversing Option for a price of \$261.00 and a total purchase price of \$26,103.00.

Whereas, The purchase of the vehicle will be supported by the Municipal Capital Cumulative Fund (MCCD) and a duly approved appropriation in the Metropolitan Police Department of the Corporation General Fund, pursuant to Section 3.05.040(E) of the Highland Municipal Code;

Whereas, The Town Council now desires to approve and authorize the Police Chief to complete the purchase pursuant to the terms and stated herein,

Now, Therefore Be It Ordered by the Town Council of the Town of Highland, Lake County, Indiana, acting as the Works Board of Municipality as follows:

Section 1. That the Works Board hereby authorizes and approves the purchase from Lakeshore Ford of Chesterton of one (1) 2018 Ford Utility Police Interceptor at the price of \$25,842.00 with the Ford Reverse Sensing Option for a price of \$261.00 for a total of \$26,103.00;

Section 2. That the Works Board hereby finds and determines the following:

(A) That the offer from Lake Shore Ford of Chesterton qualifies as a small purchase and therefore may be made in the open market without resort to inviting quotes, all pursuant to IC 5-22-8-2 and Section 3.05.060 (G)(2) of the Highland Municipal Code;

(B) That the purchase as described may qualify as a special purchase, owing to the unique opportunity to obtain the vehicle and equipment at a substantial savings to the Town, all pursuant to Section 3.05.065(F) and IC 5-22-10 et seq.;

Section 3. That the Metropolitan Police Chief is now authorized and approved to execute the purchase agreement and any additional documents in order to implement this purchase and then file these documents as financial materials with the Office of the Clerk-Treasurer, pursuant to IC 36-5-4-14.

Be It So Ordered.

DULY, PASSED, ADOPTED AND ORDERED by the Town Council of the Town of Highland, Lake County, Indiana, acting as the Works Board, this 12th day of February 2018 having passed by a vote of 4 in favor and 0 opposed.

**WORKS BOARD of the TOWN of
HIGHLAND, INDIANA**
Mark A. Herak, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA/CPFIM/CMO
Clerk-Treasurer (IC 33-42-4-1; IC 36-5-6-5)

7. Approve the proper officer to advertise for a public hearing to consider proposed additional appropriations in the amount of \$296,526.00 in the **Gaming Revenue Sharing Fund**, the amount of \$779,865.00 in the **Community Crossings Grant Fund**, the amount of \$15,000.00 in the **Municipal Cumulative Street Fund**, and the amount of \$2,068,714.00 in the **Redevelopment Capital Fund**.

Councilor Vassar moved to approve and authorize the proper officer to advertise a legal notice of a public hearing regarding proposed additional appropriations as indicated. Councilor Wagner seconded. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The proper officer was authorized.

Comments or Remarks from the Town Council:
(For the Good of the Order)

- **Councilor Bernie Zemen:** *Chamber of Commerce Co-Liaison • IT Liaison*

Councilor Zemen was absent

- **Councilor Dan Vassar:** *• Liaison to the Park and Recreation Board.*

Councilor Vassar acknowledged the Recreation Director, who offered a brief survey of programs in the Parks and Recreation Department, particularly reporting on the success of the Daddy-Daughter Date night in light of the snowstorm. The Recreation Director also reported that subject to action by the Park and Recreation Board, a final candidate for the position of Parks Director was selected.

Councilor Vassar commended the Public Works Department workers for its well-executed snow removal.

Councilor Vassar thanked the council for the opportunity to serve as president for 2017 and thanked the department heads and employees for all of their help throughout the year.

- **Councilor Steve Wagner:** • *Advisory Board of Zoning Appeals Liaison* • *Redevelopment Commission Liaison.*

Councilor Wagner also commended the Public Works Department workers for its well-executed snow removal.

- **Councilor Konnie Kuiper:** • *Town Board of Metropolitan Police Commissioners, Liaison* • *Fire Department, Liaison* • *Chamber of Commerce Co-Liaison.*

Councilor Kuiper had no report.

- **Council President Mark Herak:** *Town Executive* • *Chair of the Board of Police Pension Trustees* • *Budget and Finance Chair* • *Liaison to the Board of Sanitary Commissioners* • *Liaison to the Community Events Commission* • *Liaison to the Board of Waterworks Directors.*

Councilor President Herak also commended the Public Works Department workers for its well-executed snow removal.

Councilor President Herak acknowledged Public Works Director who offered a survey of waterworks and sanitary board projects. It was noted that there was a meeting of the Fiscal Officer and legal counsel for the Board of Sanitary Commissioners meeting with representatives of the US Department of Justice and USEPA on February 22 to further discuss the fiscal capacity of the Town to support a remedy outlined in a final SSO compliance plan.

Comments from Visitors or Residents:

1. Emmie Daniel, 2910 Churchill, Highland, asked the Town Council its stance on sexual harassment.

The Town Attorney and Councilor Vassar engaged in a colloquy with Ms. Daniel regarding the matter Ms. Daniel raised and the propriety of discussing these matters at the current meeting. It was noted that Ms. Daniel was a former employee of the Town of Highland.

2. Terry Steagall, 8577 Kleinman Road, Highland, renewed a request he has previously presented to the Town Council seeking its support of a resolution regarding the DACA residents, similar to one passed by the Lake County Council.
3. Larry Kondrat, 8115 4th Place East, Highland, Indiana, reported a plowing incident, which occurred at the parking lot of Johnston Elementary School. He opined that its workers had snow plowed obstructing several residents' cars that had obtained permission to park there to avoid a snowstorm parking violation.

Mr. Kondrat thanked the Town Council President and the Operations Director for responding to his request for assistance for his neighbors who whose cars were "barricaded" by the snow plowing of the School Town.

Mr. Kondrat further expressed his hope that the Town Council would not consider passing any sense of the council resolution regarding DACA.

Payment of Accounts Payable Vouchers. There being no further comments from the public, Councilor Kuiper moved to allow the vendors accounts payable vouchers as

filed on the pending accounts payable docket, covering the period January 23, 2018 through February 12, 2018 and the payroll docket for January 19, 2018. Councilor Wagner seconded. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The accounts payable vouchers for the vendor docket were allowed, payments allowed in advance were ratified, and for all remaining invoices, the Clerk-Treasurer was authorized to make payment.

Vendors Accounts Payable Docket:

General Fund, \$448,050.26; Motor Vehicle Highway and Street (MVH) Fund, \$100,338.88; Local Road and Street Fund, \$4,842.00; Law Enforcement Continuing Education and Equipment Fund, \$2,842.00; Corporation Bond and Interest Fund, Flexible Spending Account Fund, \$1,309.20; Gasoline Payment Agency Fund, \$19,398.21; Information Communications Technology Fund, \$7,448.40; Solid Waste District Grant Fund, \$533.07; Civil Donation Fund, \$144.76; Special Events Non Reverting Fund, \$1,025.15; Municipal Cumulative Capital Development Fund, \$61,346.39; Traffic Violations and Law Enforcement Agency Fund, \$8,109.00; Total: \$1,422,620.18.

Payroll Docket for payday of January 19, 2018:

Council, Boards and Commissions, \$7,932.00; Office of Clerk-Treasurer, \$12,229.78; Building and Inspection Department, \$8,528.01; Metropolitan Police Department, \$121,203.24; Fire Department, \$28,621.54; Public Works Department (Agency), \$84,849.32 and 1925 Police Pension Plan Pension Fund, \$67,734.72; Total Payroll: \$332,098.61.

Adjournment of Plenary Meeting. Councilor Kuiper moved that the plenary meeting be adjourned. Councilor Vassar seconded. Upon a vote *viva voce*, the motion passed. The regular plenary meeting of the Town Council of Monday, February 12, 2018 was adjourned at 7:38 O'clock p.m.

Michael W. Griffin, IAMC/MMC/CPFA/CPFIM/CMO
Clerk-Treasurer